

**Notice of Allowability**

Application No.

10/034,500

Examiner

Padmavathi v Baskar

Applicant(s)

JACOBS ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/14/04.
2. ☒ The allowed claim(s) is/are 9, 18, 19, 20 and 21 and have been renumbered as 1-5 respectively.
3. ☒ The drawings filed on 20 December 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 4/21/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 11/22/04.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

  
**PATRICIA A. DUFFY**  
PRIMARY EXAMINER

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/14/04 has been entered.

#### ***Amendment***

2. Applicant's amendment filed on 9/14/04 is acknowledged.

#### ***Status of Claims***

3. Claims 9, 13, 18, 19, 20, 21 and 38 have been amended

Claims 1-8, 14-17, 22-37 are canceled.

Claims 9, 13, 18, 19, 20, 21 and 38 are pending in the application.

#### ***Examiner's amendment***

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with

William Blackstone 11/22/04,

Claims 13 and 38 are canceled.

Claim 9, line 2, after membrane protein, replaced ", said protein being immunoreactive with antisera to " with - - comprising the amino acid sequence as set forth in - -

Art Unit: 1645

Claim 19, line 2, after Claim 18, inserted - - - further - - -

Claim 20, line 2, after Claim 18 inserted - - - further - - -

Claim 20, line 4, replaced "derived " with - - - obtained - - -

Claim 20, line 5 after pigs, deleted "or genetic information encoding said antigen"

***35 USC 112, first paragraph withdrawn***

5 In view of amendment to the claims and arguments of record, the rejections under 35 USC 112, first paragraph are withdrawn.

***35 USC 112 second paragraph withdrawn***

6. In view of amendment to the claims and arguments of record, the rejections under 35 USC 112, second paragraph are withdrawn.

***Claim Rejections - 35 USC 102 withdrawn***

7. In view of amendment to the claims and arguments of record, the rejections under 35 U.S.C. 102(b) as being anticipated by McOrist et al. 1989. Infect. Immun. 57: 957- 96 is withdrawn.

8. In view of amendment to the claims and arguments of record, the rejections under 35 U.S.C. 102(a) as being anticipated by Smith et al 2000 Infection and Immunity, December 2000, p. 6737-6743, Vol. 68, No. 12 is withdrawn.

9. The claims define an isolated novel outermembrane protein from *Lawsonia intracellularis* and an immunogenic composition comprising the amino acid sequence, SEQ.ID.NO: 2 and having a molecular weight 37kD. As this protein is an outermembrane protein, it has a significant and specific value in positively diagnosing the infection caused by *Lawsonia intracellularis*.

Art Unit: 1645

***Remarks***

10. Claims 9, 18, 19, 20 and 21 are allowed and have been renumbered as 1-5 respectively.

***Conclusions***

11. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The RightFax number for submission of before-final amendments is (703) 872-9306. The RightFax number for submission of after-final amendments is (703) 872-9307.

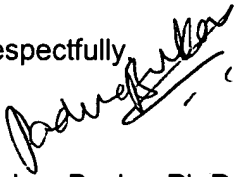
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week.

Art Unit: 1645

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (571) 272-0864. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600

Respectfully,

A handwritten signature in black ink, appearing to read 'Padma Baskar', written over a horizontal line.

Padma Baskar Ph.D.